

**DEPARTMENT OF STATE REVENUE
SUPPLEMENTAL LETTER OF FINDINGS: 07-0391
Indiana Corporate Income Tax
For the Tax Year 2003**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Adjusted Gross Income Tax—Business/Non-Business Income.

Authority: IC § 6-8.1-5-1; 45 IAC 15-5-5.

Taxpayer protests the Department's decision to reclassify certain of Taxpayer's non-business income as business income.

STATEMENT OF FACTS

Taxpayer is a multi-structured manufacturing business consisting of a parent corporation ("parent") and several subsidiaries. Taxpayer filed a consolidated Indiana adjusted gross income tax return including its parent and subsidiaries that had activities in Indiana for the tax year 2003. Pursuant to a desk audit for the tax period 2003, the Indiana Department of Revenue (Department) assessed additional adjusted gross income tax, penalties, and interest. An administrative hearing was held, and a Letter of Findings ("LOF") was issued denying Taxpayer's protest of tax assessment and sustaining Taxpayer's protest of the penalty assessment. Taxpayer requested and was granted a rehearing. Subsequently to requesting the rehearing, Taxpayer also submitted an original protest identical to what the Taxpayer had submitted for rehearing. A rehearing was held, and this Supplemental Letter of Findings results. Further facts will be supplied as required.

I. Adjusted Gross Income Tax—Business/Non-Business Income.

DISCUSSION

Pursuant to IC § 6-8.1-5-1(c), all tax assessments are presumed to be accurate, and the taxpayer bears the burden of proving that an assessment is incorrect.

In the LOF, the Department found that Taxpayer's parent company's interest expense deduction was a business expense deduction that is subject to apportionment for Indiana adjusted gross income purposes. At the rehearing, Taxpayer failed to present any facts or

issues that were relevant to the original issue protested, the Department's decision to reclassify certain of Taxpayer's non-business income as business income.

45 IAC 15-5-5(b), in relevant part, provides that "if a rehearing is granted, the rehearing will not be held de novo"

Taxpayer presented issues that were not included in the Taxpayer's original protest, did not relate to the original protest issue, and that have also been presented to the Department in another protest.

Since rehearings are not held de novo, the Department will leave these new issues for the administrative proceeding that will result from Taxpayer's subsequently filed original protest.

Accordingly, since Taxpayer has failed to present any facts or issues that are relevant to originally disputed issue, Taxpayer has failed to meet its burden under IC § 6-8.1-5-1(c).

FINDING

Taxpayer's protest is denied.